

**IN THE CIRCUIT COURT OF THE FOURTH
JUDICIAL CIRCUIT IN AND FOR
DUVAL COUNTY, FLORIDA**

**CASE NO.:
DIVISION:**

**SUSIE BROWN, individually and
as Guardian of X.O., a minor child,**

Plaintiff,

v.

JURY TRIAL DEMANDED

**THE NATIONAL DEAF ACADEMY, LLC
d/b/a NATIONAL DEAF ACADEMY, a/d/b/a
NATIONAL DEAF ACADEMY, a Behavioral
Health System, a Florida Limited Liability
Company and UNIVERSAL HEALTH
SERVICES, INC.,**

Defendants.

_____ /

COMPLAINT FOR DAMAGES

COMES NOW the Plaintiff, SUSIE BROWN, individually and as Guardian of X.O., a minor child, by and through her undersigned counsel, files this Complaint for Damages against Defendants, THE NATIONAL DEAF ACADEMY, LLC d/b/a NATIONAL DEAF ACADEMY a/d/b/a NATIONAL DEAF ACADEMY BEHAVIORAL HEALTH SYSTEM and UNIVERSAL HEALTH SERVICES, INC., and states as follows:

JURISDICTION AND VENUE

1. This is an action for damages, which exceed the sum of FIFTEEN THOUSAND DOLLARS (\$15,000.00), exclusive of costs and interest, and otherwise within the jurisdiction of this Court.

2. Venue is proper in this Court because the incidents giving rise to this action occurred in Lake County, Florida.
3. Plaintiff, SUSIE BROWN, who was at all times relevant hereto the Guardian of X.O., a minor child.
4. The Defendant, THE NATIONAL DEAF ACADEMY, LLC d/b/a NATIONAL DEAF ACADEMY a/d/b/a NATIONAL DEAF ACADEMY BEHAVIORAL HEALTH SYSTEM (hereinafter “NDA”) was, and is, a Florida Limited Liability Company, authorized and registered to do business in the State of Florida, and conducting business in Lake County, Florida. As the employer of personnel involved in the safety, supervision, care and treatment of D.O., the NDA is vicariously liable for the acts and omissions of its employees and agents under the doctrine of *Respondeat Superior*.
5. The Defendant, UNIVERSAL HEALTH SERVICES, INC., (hereinafter “Universal”) was, and is, a Delaware Corporation, authorized to do business in the State of Florida with an agent or other representative in Duval County, Florida. Universal is the parent corporation of THE NATIONAL DEAF ACADEMY, LLC d/b/a NATIONAL DEAF ACADEMY a/d/b/a NATIONAL DEAF ACADEMY BEHAVIORAL HEALTH SYSTEM, responsible for the oversight and management of NDA personnel, and as such, is vicariously liable for the acts and omissions of its employees and agents under the doctrine of *Respondeat Superior*.
6. At all times material, Defendants owned, managed, administered, maintained and/or operated a residential treatment facility for developmentally disabled persons located at 19650 U.S. 441, in Mount Dora, Lake County, Florida.

7. The Defendant, NDA, is licensed by the State of Florida Agency for Health Care Administration to operate a residential treatment facility and/or a residential treatment center for children and adolescents in Lake County, Florida, subject to the provisions of Chapters 393 and 394 of the Florida Statutes, and Chapter 65E of the Florida Administrative Code.

STATEMENT OF PROCEDURE

8. Plaintiff shows she has served a Notice of Intent to Institute Litigation for Medical Negligence upon Defendants. Plaintiff will amend the within Complaint in the event the Defendants, or one of them individually, denies the contents and allegations raised therein within ninety (90) days from service as provided by Florida Statutes §766.106 and §766.201 and Rule 1.650 of the Florida Rules of Civil Procedure.

GENERAL ALLEGATIONS

9. Chapter 65E of the Florida Administrative Code contains regulations of the Florida Department of Health and Rehabilitative Services, and imposes duties of care upon residential treatment facilities and residential treatment centers for children and adolescents, such as NDA, and their employees, agents and consultants. These regulations mandate the protection of a particular class of persons, *i.e.*, residential facility and center residents, like X.O., because of their inability to protect themselves and communicate incidents of staff or resident abuse.
10. Chapter 65E of the Florida Administrative Code is intended to protect residential treatment facility and/or residential treatment center residents from injuries caused by neglect, abuse, inadequate care, treatment and services.

11. This action is brought, in part, pursuant to Florida Statutes, §393 and §394, Chapter 65E of the Florida Administrative Code, and under and pursuant to Florida Statute §768.16 and §768.18.
12. At all times material, Defendant, NDA, acted by and through its officers, directors, agents, servants, representatives, administrators and employees, who at all times material, conducted themselves within the course and scope of their authority, and/or employment and/or agency.
13. At all times material, X.O. was a developmentally disabled child who had been admitted to and was residing at Defendants' facility in Mount Dora, Florida, and was helpless to care for himself.
14. During the time frame March 26, 2012 to May 24, 2013, X.O. was under the permanent care of NDA.

COUNT I – ALLEGATIONS OF NEGLIGENCE

The Plaintiff adopts by reference all of the allegations contained in Paragraphs 1 through 14 above.

15. At all times material, Defendants owed X.O. a duty to exercise reasonable care for his health and safety under the circumstances of his physical and mental condition during his residency at NDA.
16. The Defendants owed X.O. the duty to provide him with appropriate care, which included, but was not limited to, the duty to comply with applicable regulations, including Chapter 65E of the Florida Administrative Code, and Chapters §393 and §394 of the Florida Statutes.

17. The Defendants were negligent and breached its duties of care owed to X.O. in at least the following ways:

- a. Failure of management and staff to establish, follow and implement a proper daily plan of care for X.O.;
- b. Failing to adequately train, supervise and monitor employees and X.O.'s caretakers on his need for supervision and monitoring;
- c. Failing to ensure proper nutrition and food and hydration intake for X.O.;
- d. Failing to timely conduct a nutritional screening or assessment of X.O. by a nutritionist or registered dietician;
- e. Failing to properly and adequately set forth a proper daily living care plan considering X.O.'s physical, behavioral, and emotional needs, developmental level and chronological age, family situation, education level and expected length of stay;
- f. Failing to use appropriate remedial techniques to the extent X.O. was at all himself non-compliant with his daily care regimen;
- g. Failing to follow its own policies and procedures;
- h. Failing to protect X.O. from physical harm by staff or other residents;
- i. Failing to properly care for X.O., a minor child;
- j. Failing to properly recognize NDA was unable to adequately care for X.O., a minor child;
- k. Failing to implement necessary safety precautions for X.O., a minor child, in order to prevent from him injury or exacerbation of physical and mental conditions;
- l. Allowing or otherwise enabling X.O. to have access to and observe pornographic materials or illicit sexually oriented materials on a regular basis;

- m. Failing to provide X.O. with clean, sanitary and safe living conditions; and
 - n. Other acts of negligence which may be revealed during discovery.
18. Plaintiff first learned of Defendant's negligence on or about May 24, 2013. Plaintiff did not discover and could not have discovered, with the exercise of due diligence, Defendants' negligent conduct at any sooner time.
19. As a direct and proximate result of Defendants' negligence and violation of X.O.'s resident rights, X.O. suffered physical injury, aggravation of a pre-existing condition, pain and suffering, disability, disfigurement, mental anguish, loss of enjoyment of life, and Plaintiff, Susie Brown, as natural guardian of X.O., has incurred medical expenses in the care and treatment of X.O.'s injuries, all of which are permanent or continuing in nature, and Plaintiff or X.O., himself, will suffer the losses and impairment in the future.

WHEREFORE, Plaintiff, SUSIE BROWN, individually and as Guardian of X.O., a minor child, demands judgment for damages against the Defendants in excess of Fifteen Thousand Dollars (\$15,000.00), post judgment interest as allowable by law, any and all costs and attorney's fees allowable by law, and demands trial by jury of all issues so triable. Plaintiff reserves the right to amend her Complaint to add a claim for punitive damages at a later date.

**COUNT II – CLAIM FOR ABUSE AND NEGLECT OF A
CHILD PURSUANT TO FLORIDA STATUTES, CHAPTER §394,
THE FLORIDA MENTAL HEALTH ACT**

The Plaintiff adopts by reference all of the allegations contained in Paragraphs 1 through 19 above.

20. The Defendants owed a statutorily mandated duty of care to X.O. which required it to honor X.O.'s rights as set forth in Florida Statutes, Chapters 393 and 394. These rights included, but were not limited to:

- a. Affording him the right to be free from abuse, including abuse, neglect and exploitation from staff or other residents;
- b. Affording him or his Guardian the right to be fully informed of his medical condition and proposed treatment;
- c. Affording him the right to receive adequate and appropriate health care and protective support services;
- d. Affording him the right to be treated courteously, fairly and with a measure of dignity;
- e. Affording him the right to be free from mental and physical abuse; and
- f. Compliance with all regulations for the operations of residential treatment centers promulgated by the Department of Health and Rehabilitative Services and contained in Florida Administrative Code 65E.

21. The Defendants breached the statutorily defined duties it owed X.O. and violated X.O.'s statutorily guaranteed rights, in at least the following ways:

- a. Failing to supervise and/or monitor X.O.'s known health and mental conditions;
- b. Failing to establish, follow and implement a proper daily plan of care for X.O.;

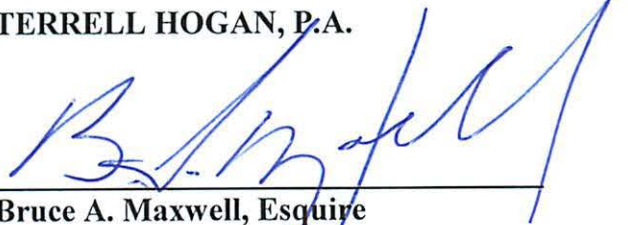
- c. Failing to adequately train, supervise and monitor employees and X.O.'s caretakers on X.O.'s need for supervision and monitoring;
 - d. Failing to properly and adequately set forth a treatment plan clinically considering X.O.'s physical, behavioral, and psychological needs, developmental level and chronological age, multi-level diagnosis, educational level and expected length of stay;
 - e. Failing to document, monitor, maintain or supervise X.O.'s institutional needs;
 - f. Failing to use appropriate remedial techniques to the extent X.O. was at all himself non-compliant with his daily care regiment, or was otherwise incapable of compliance.
 - g. Failing to properly train and supervise staff during the course of X.O.'s resident stay;
 - h. Failing to amend X.O.'s treatment plan upon notice that current interventions were rendered ineffective;
 - i. Failing to protect X.O. from harm by staff or other residents at NDA;
 - j. Failing to implement necessary safety precautions related to X.O.;
 - k. Improperly using physical or chemical restraints;
 - l. Improperly maintaining low staff levels for monitoring X.O.'s activities; and
 - m. Improper retention of staff upon learning of inadequacies during X.O.'s stay.
22. As a direct proximate result of the Defendants' above described breaches of its duties of care and violations of Florida Statutes, the Plaintiff, Susie Brown, individually and as Guardian of X.O., a minor child, is entitled to recover damages that include, but are not limited to damages for X.O.'s mental pain and suffering, physical pain and

suffering, medical expenses incurred in treating X.O. for his injuries, and such other damages as are allowed under Florida law.

WHEREFORE, the Plaintiff, SUSIE BROWN, individually and as Guardian of X.O., a minor child, demands judgment against the Defendants, THE NATIONAL DEAF ACADEMY, LLC d/b/a NATIONAL DEAF ACADEMY and UNIVERSAL HEALTH SERVICES, INC., in excess of Fifteen Thousand Dollars (\$15,000.00), post judgment interest as allowable by law, any and all costs and attorney's fees as allowable by law and demands a trial by jury of all issues so triable. Plaintiff reserves the right to amend her Complaint to add a claim for medical negligence or punitive damages at a later date.

RESPECTFULLY SUBMITTED this 15th day of September, 2014.

TERRELL HOGAN, P.A.



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